

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 7. Mediation Questionnaire

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9th Cir. Case Number(s) 25-2120

Case Name National TPS Alliance, et al. v. Noem, et al.

Amanda B. Saylor

Counsel submitting this form

Kristi Noem, U.S. DHS, & United States of America

Represented party/parties

Briefly describe the dispute that gave rise to this lawsuit.

In January 2025, former DHS Secretary Mayorkas extended the 2023 designation of Temporary Protected Status for Venezuela by 18 months and established a consolidated filing process that allowed TPS Venezuela beneficiaries under two previously separate designations--the 2021 and 2023 TPS Venezuela designations--to obtain TPS through October 2026. Citing national security and other legitimate policy interests, DHS Secretary Noem properly reconsidered these decisions, vacated the extension, and then terminated the designation consistent with the statutory timeline.

Appellees consist of an organization and seven individuals who filed a lawsuit in the Northern District of California challenging Secretary Noem's decisions to vacate and terminate the two TPS designations for Venezuela. One day after filing their complaint, Appellees filed a Motion Postpone Effective Date of Agency Action. Though Appellees styled their motion as one arising under 5 U.S.C. § 705 of the Administrative Procedure Act (“APA”), they cited to the preliminary injunction standard throughout their motion and effectively asked the district court for injunctive relief.

The district court granted that relief on March 31, 2025. Appellants appealed on April 1, 2025; the Court established an expedited briefing schedule. Appellants also filed an emergency motion to stay the district court's order pending appeal on April 4, 2025.

Briefly describe the result below and the main issues on appeal.

Appellants challenge the district court's postponement order on numerous grounds. First, the TPS statute, 8 U.S.C. §1254a(b)(5)(A), precludes review of both the Secretary's 2025 Termination and Vacatur decisions. Second, even had the jurisdictional bar not applied, the Secretary acted within her inherent authority in issuing both decisions, as statutory authorization to issue a benefit carries with it an implied incidental authority to revoke it. Third, the district court cast aside and minimized the evidence of the legitimate purposes underlying the Secretary's decisionmaking, instead choosing to give credence to quotes taken out of context, some from years prior, in justifying the need to apply the more searching strict scrutiny standard. Fourth, the district court erred in finding jurisdiction despite being precluded from doing so under 8 U.S.C. §1252(f)(1). Finally, the district court exceeded its authority in ordering nationwide, universal relief. Appellants may raise additional arguments in briefing.

Appellants and Appellees disagree about threshold (and dispositive) legal and jurisdictional issues that Appellants maintain bar any judicial review of the DHS Secretary's challenged determinations. Therefore, Appellants do not believe that this expedited case is appropriate for mediation or a settlement assessment conference.

Describe any proceedings remaining below or any related proceedings in other tribunals.

Haitian Americans United Inc., et al. v. Donald J. Trump, et al., 1:25-cv-10498 (D. Mass.) (challenging TPS decisionmaking related to Haiti and Venezuela).

Haitian Evangelical Clergy Association, et al v. Donald. J. Trump, et al., 1:25-cv-01464 (E.D.N.Y) (challenging TPS decisionmaking related to Haiti).

CASA, Inc., et al., v. Kristi Noem, et al., 8:25-cv-00525 (D. Md.) (challenging TPS decisionmaking related to Venezuela).

Signature	s/ Amanda B. Saylor	Date	4/7/2025
(use "s/[typed name]" to sign electronically-filed documents)			